Morris Town 9th April 1777.

Sir

I take the liberty of transmitting you a Copy of a Paper addressed to me by Lieut. Colo. Walcot of your Army, which came inclosed in a letter from Lieut. Genl. Lord Cornwallis. It is with peculiar regret, I am constrained to observe, that this illiberal performance of Colo. Walcot, is obviously calculated, to answer a less generous purpose than that of merely effecting an exchange — contains a gross misrepresentation of facts, and is a palpable deviation from that delicate line, which I expected would mark his conduct, as a man of candor and ingenuity.

That Gentleman has censured two Articles insisted on by me through Lieut. Colo. Harrison at their meeting on the 10th Ulto. as groundless, unprecedented, and inconsistent with any degree of reason, or common sence, tho. founded, as I conceive, in the clearest principles of Equity and justice. — Nor contenting himself with this, which would have given me no concern, he has assumed the privilege of mutilating and mistating those Articles in such a manner, as to change their meaning, and to adapt them to the unfair conclusions he wished to establish.

Having premised these things, and being charged in direct and positive terms by Colo. Walcot, who acted under your authority, with a violation of the agreement made between us for the Exchange of Prisoners, and called upon for a performance of the same, I think it necessary to explain the motives of my conduct, and the grounds on which those Articles or Objections stand.

In respect to the first, I freely repeat, that I do not hold myself bound, either by the spirit of the Agreement, or by the principles of justice, to account for those prisoners, who from the rigor and severity of their treatment, were in so emaciated and languishing a State at the time they came out, as to render their death almost certain and inevitable; and which in many instances happened while they were returning to their Homes and in many others after their arrival. You must be sensible, that our Engagement, as well as all others of the kind, though in letter it expresses only an equality of rank and

number

number, as the rule of Exchange, yet it neceſsarily implies a regard to the general principles of mutual compensation and advantage. This is inherent in its nature — is the voice of reason, and no stipulation, as to the condition in which Prisoners should be returned, was requisite. Humanity dictated, that their treatment should be such, as their health and comfort demanded, and where her laws have been duly respected, their condition has been generally good. — Nor is this the language of Humanity alone — justice declares the same. The Object of every Cartel or similar agreement, is the benefit of the Prisoners themselves, and that of the contending Powers — on this footing it equally exacts, that they should be well treated, as that they should be exchanged: The reverse is therefore, an evident infraction, and ought to subject the party, on whom it is chargeable, to all the damage and ill consequences resulting from it. Nor can it be expected, that those unfitted for future services by acts of severity in direct violation of a Compact, are proper subjects for an Exchange. In such case, to return others not in the same predicament, would be to give without recieveing an equivalent; and would afford the greatest encouragement to cruelty and inhumanity. The argument drawn from the mere circumstance of the Prisoners having been received, is of no validity. Though from their wretched situation, they could not at that time be deemed proper for an Exchange, our Humanity requir'd that they should be permitted to return amongst us. —

— It may perhaps be fairly doubted, whether an apprehension of their death or that of a great part of them, did not contribute somewhat to their being sent out when they were, Such an event whilst they remained with you, would have been truly interesting, because it would have destroyed every shadow of claim for a return of the Prisoners in our hands, and therefore policy, concurring with Humanity, dictated, that the measure should be adopted. Happy had it been if the expedient had been tho't of, before these ill fated men were reduced to such extremity. It is confeſsed however on all sides, that after their delivery they still continued your Prisoners, and would be so, till regularly exchanged. I acknowledge that I should be, and I have been, always willing, notwithstanding this conceſsion, to account for every man who was in a proper condition and fit to be exchanged at the time they came out, so far as the proportion of Prisoners with us would extend. — With what

propriety —

RW 428(1)

propriety or upon what foundation of justice can more be demanded. This has been proposed, or what is the same, was moſt clearly implied in the first Article, or objection, made by Lieut. Colo. Harrison, and illiberally rejected since, as inconsistent with any degree of reason, or common sense. Painfull as it is, I am compell'd to consider it, as a fact not to be question'd, that the usage of our Prisoners whilst in your poſseſsion, the Privates at least, was such as could not be justified. This was proclaimed by the concurrent testimony of all who came out — their appearance sanctified the aſsertion — and melancholy experience in the speedy death of a large part of them, stamped it with infallible certainty.

In respect to the second Article insisted on. — Your discriminating Major Genl. Lee from other Captive Officers belonging to the American Army, demanded my particular attention. I was authorized to conclude from your laying him under particular restraints, and from your letter of the 23d of Jany. last, that you considered him in a singular point of view, and meant to exclude him from the common rights of Exchange, stipulated for all officers in general terms. This distinction the more injurious and unwarrantable, as you never excepted him, though you knew him to be an officer in our Army, at the time, and long before the agreement was entered into, made it my duty, to aſsert his right in an explicit manner, and to endeavour to put the matter in so unequivocal a footing as to insure his enlargement, whenever an Officer of equal Rank, belonging to your Army shd be in our Power. This was attempted by the Article, and nothing more — nor is any other inference to be drawn from it. — It is true a proposition was made, since his Captivity, to give a certain number of Officers of Inferior Rank in Exchange for him, but it was not claimed, as a matter of right. — What name then, does that proceeding merit, by which it is suggested, that the immediate release of Genl. Lee had been demanded, without having an Officer of equal Rank to give for him? The suggestion cannot be supported by the moſt tortured exposition, nor will it have credit where candor is deemed a Virtue, and words preserve their form and meaning.

As to the charge of delay in not returning the Prisoners in our hands — the dispersed situation of those, taken at a more early Period of the War through the different States, arising from the circumstances of their Captivity, and a regard to their better accommodation, made their detention for a considerable time unavoidable. When the agreement subsisting between us took place, the speediest directions were given to have them collected, that an Exchange might be effected. This was done in part, and at a juncture when motives of policy opposed the measure, but were made to yield to rigid maxims of good faith. We were pursuing the exchange and continued our exertions to accomplish it, till the miserable appearance, indicating an approaching Catastrophe, of those sent out by you, made it improper, foreseeing that a difficulty might arise, and that it might be expected, I should

account

account for the whole of them, which I by no means thought equitable, it became ne-cessary that the matter should be adjusted and the due proportion settled for which I ought to be responsible, before any thing further could be done o my part. upon this ground stands also, the detention of those, who have be since Captured.

Added to these considerations, — the discrimination set up in the insta of Genl. Lee, is to be regarded, as utterly irreconcileable to the tenor of our agre-ment, and an insurmountable obstacle to a compliance with your demand

Thus Sir, have I explained the motives of my conduct, & I tru vindicated myself in the eye of impartiality, from the [illegible] charge which you and the Gentlemen acting by your authority have been pleased t alledge against me. — If in doing this, I have departed in the smallest de-gree from that delicacy, which I always wished should form a part of my Charac you will remember, I have been forced into recrimination and that it ha become an act of necessary justice.

I shall now declare it to be my ardent wish, that a General Exchange may take place on generous ~~and as far as it can be effected~~ & liberal Principles, as far as it can be effected. and that the agreement subsisting between us for that pur-pose should be inviolably observed; and I call upon you by every obligati of good faith, to remove all impediments on your part to the accomplishmen of it. If however you do not, I console myself with a hope, that those unfor-tunate men, whose lot it is to be your Prisoners, will bear their sufferings with becoming fortitude and magnanimity

I am Sir

with due respect

your most obedt. Servt.

G W——n

His Excellency
Genl. Sir William Howe

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R.W. 428(2)

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